



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 5b

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Memorandum

TO: Legislation Committee

DATE: February 2, 2011

FR: Deputy Executive Director, Policy

W. I. 1131

RE: SB 28 (Simitian): Penalties for Driving & Bicycling While Using Wireless Technology

Background

SB 28 (Simitian) seeks to strengthen California's existing laws related to using a cell phone or sending text messages while driving or bicycling by 1) seeking to expand drivers' understanding of current laws; and 2) imposing stiffer penalties for the violation of those laws. Existing law prohibits — with some exceptions — a person from using a handheld wireless phone or texting while operating a motor vehicle. The base fine is \$20 for an initial offense for either violation and \$50 for each subsequent offense. These two violations are primary offenses, which allow a law enforcement officer to stop a driver suspected of violating these laws. However, violation of these laws does not result in a point being added to one's driving record.

The law is stricter with regard to minors, but is still limited in key respects. A person under 18 years of age is totally prohibited from driving a motor vehicle while using a wireless telephone, even if equipped with a hands-free device. However, if a minor uses a cell phone while equipped with a hands-free device or transmits or reads a text message, this is considered a "secondary" offense; therefore, a law enforcement officer may not stop a driver solely to determine whether that law was violated.

Specifically, SB 28 makes the following changes:

- Requires the Department of Motor Vehicles (DMV) to test a driver's license applicant's understanding of the dangers of handheld cell phone use and text messaging while operating a motor vehicle.
- Increases the base fines for operating a cell phone without a hands-free device from \$20 to \$50 for a first conviction, and from \$50 to \$100 for each subsequent offense.
- Increases the base fine for driving while texting from \$20 to \$50 for a first offense, and from \$50 to \$100 for each subsequent offense.
- Makes these offenses an "infraction" that will result in a point on the driving record.
- Imposes a total fine amount of \$20 for a first offense and \$50 for each subsequent offense for a violation of the above prohibitions while riding a bicycle, but does not assign a point if the offense occurred while riding a bicycle.
- Authorizes a law enforcement officer to stop a vehicle for the sole purpose of determining whether a driver under the age of 18 is sending, reading or composing a text message or using a cell phone, even with a hands-free device.
- Requires a county treasurer to submit \$10 from each fine collected for these violations to the State Controller for an education program (administered by the Office of Traffic Safety) on the dangers of cell phone use and text messaging while driving.

Recommendation: Support

Discussion

This bill is identical to SB 1475 (Simitian), which MTC supported last year, but it died in the Assembly Appropriations Committee.

Distracted driving due to the use of cell phones or other hand-held devices is a serious safety problem and one that the U.S. Department of Transportation (DOT) has elevated to national prominence. According to the DOT's Web site dedicated to the topic (www.distractation.gov), 5,870 people lost their lives in 2008 and an estimated 515,000 people were injured in police-reported crashes in which at least one form of driver distraction was reported on the police report. In addition, the proportion of drivers reportedly distracted at the time of the fatal crashes has increased from 8 percent in 2004 to 11 percent in 2008.

Distracted driving is also a problem that affects young adults more than other age groups: the under-20 age group had the highest proportion of distracted drivers involved in fatal crashes (16 percent). Researchers call texting a "perfect storm," because drivers take their hands off the steering wheel at the same time that their eyes and minds are off the road. According to a random survey conducted by the American Automobile Association of Southern California in March-April 2010, texting is on the rise, doubling from 0.5 percent in May-June 2009 to 1.1 percent in March-April 2010. Stiffer penalties and better education are viewed as the best ways to improve compliance.


Known Positions *(for SB 1475 from 2010)*

Support

- Automobile Club of Southern California
- California Bicycle Coalition
- California State Automobile Association
- Cheap School (Traffic School)
- Comedy Traffic School
- Consumers for Auto Reliability
- Driving School Association of California, Inc.
- Great Comedians 2 (Traffic School)
- Pizza 4U (Traffic School)
- San Francisco Bicycle Coalition
- Traffic Safety Consultants, Inc.

Oppose

- California Conference Board of the Amalgamated Transit Union
- California Conference of Machinists
- California Teamsters Public Affairs Council



Ann Flemer